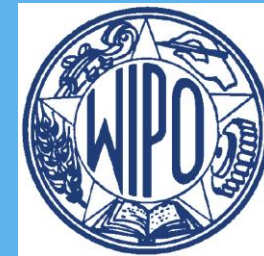




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National Experiences with the Meaning and Relevance of the Public Domain in the Context of Traditional Knowledge and Traditional Cultural Expressions



National Policy Setting



This is a distinctly Indigenous image and design that is associated with central themes in Indigenous Australian cultures.



Definitions of the Public Domain



- ❑ No single definition of the public domain that applies to all IP Rights
- ❑ Commonly used as a copyright term, though not clearly defined.

➤ Example:

The Public Domain is composed of elements that are themselves unprotected, whatever the circumstances of their use.

The Public Domain is free use by its nature as it is premised on the absence of exclusive rights



Key Policy Issue

- ❑ Balancing the rights of indigenous peoples to control and protect their cultural heritage, including the right to keep that knowledge secret, in accord with Article 31 of the UN Declaration on the Rights of Indigenous Peoples.
- ❑ Whilst recognising the potential value of TK and TCEs for creativity and innovation, and the broad human right to enjoy the arts, participate in the cultural life of the community, and benefit from advancements in science, reflected in Article 27 of UN Declaration on Human Rights.



Core Issues - Boundaries between Public Domain and Scope of Protection of TK and TCEs

- ❑ Has the Knowledge or Expression been created by a specific indigenous Community(s)
- ❑ Is it directly linked and associated with their cultural and social identity.
- ❑ Is it controlled and maintained by the community, usually through customary laws and practice.
- ❑ How dispersed is the knowledge, is it closely held, publically available but not widely known, or widely known





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Thank you

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IP Australia has achieved certification for its quality and environmental management systems.

